

REMARKS

This is responsive to the Office Action dated November 5, 2003 in which the Examiner rejects all the pending claims 1-12 as either being anticipated by Midgley et al (US Patent No. 6,526,418), Anglin (US Patent No. 6,026,414) or Cane et al (US Publication 2002/0129047) under 35USC §102(e), or being obvious over Cane et al in view of Beeler, Jr. (US Patent No. 5,974,563) under 35USC §103(a). Claim 9 is further objected for a language deficiency. Applicants have cancelled claims 7-11 without prejudice, thus removing the grounds for the rejection and objection to claims 7-11. Applicants have amended independent claims 1 and 12 and added claims 13-14 to more precisely define the present invention, and respectfully traverse the rejections of the Examiner based on the amended claims and the following detailed explanation.

First of all, Applicants believe a brief explanation of the present invention will be helpful in understanding the patentably distinguishing features of the present invention as defined in the amended claims over the cited patents. The present invention discloses a novel method and system for backing up data that was previously transmitted between a subscriber server and a service provider access server. In particular, upon receipt of a request from the subscriber server for backing up the data that was previously transmitted between the (same) subscriber server and the service provider access server, the service provider access server is checked to determine whether it has a copy of the data. If it has a copy, the copy is used for backing up the data. These features are now clearly and expressly defined in the amended independent claims 1 and 12. Thus, the backing up process is optimized by using the copy in the access server if it is available. This is particularly applicable in an access server at an ISP where the access server often automatically backs up the content (e.g., email) that passes through the ISP to or from the subscriber server.

Applicants believe that independent claims 1 and 12 as amended are now clearly distinguishable from the Cane et al (US Publication No. 2002/0129047). Cane discloses a method and apparatus for providing a multiple copy file backup system in which files that have been previously backed up by a first user are to be backed up by other users. More specifically, Cane teaches to use the file backed up by the first user to generate copies for backing up by other users. Obviously, Cane is a solution in an environment different from that of the present invention where the previously transmitted data is requested by the same user to be backed up. In particular, Cane does not teach to backup the file (data) that was previously transmitted between the client (read as "subscriber server") and server (read as "service provider access server") requested by the same client. More specifically, it cannot be found anywhere in Cane that the data to be backed up is data previously transmitted between the server and the same client that requests for backing up. Therefore, Applicants believe that independent claims 1 and 12 as amended are not anticipated by Cane et al.

Applicants have also carefully reviewed all other cited patents, and believe that the present invention as defined in amended claims 1 and 12 are not anticipated by any other cited patents, or be obvious over their combinations, either. In particular, none of Midgley et al (US Patent No. 6,526,418), Anglin (US Patent No. 6,026,414) or Beeler, Jr. (US Patent No. 5,974,563) has taught to receive a request from a subscriber server to back up the data previously transmitted between the (same) subscriber server and the service provider access server.

Therefore, independent claims 1 and 12 are believed patentable under 35USC §§102 and 103. At least for the same reasons, dependent claims 2-6 and 13-14 are also believed patentable as each of them includes all the limitations in independent claim 1.

Applicants therefore respectfully request reconsideration and allowance in view of the above remarks and amendments. A request for extension under 37CFR 1.136(a) to submit this response is enclosed together with the proper fee. The Examiner is authorized to deduct additional fees believed due from our Deposit Account No. 11-0223.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal service as first class mail, in a postage prepaid envelope, addressed to Mail Stop Non-fee Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on April 5, 2004.

Dated April 5, 2004 Signed Fern Pekarofski Print Name Fern Pekarofski